

Alan J. Steinberg  
Regional Administrator  
U.S. EPA  
290 Broadway  
New York, NY 10007-1866

May 4, 2006

Dear Mr. Steinberg:

I am writing you on behalf of the New Jersey chapter of Public Employees for Environmental Responsibility (PEER) to request your intervention in order to allow meaningful public participation in an important facet of administering the Clean Water Act in our state.

In the May 1, 2006, New Jersey Register, the state Department of Environmental Protection (DEP) noticed a 30 day written comment period and a May 4, 2006 "information meeting" on the 2006 303(d) list (Integrated list of Waterbodies).

Previously, DEP provided formal public notice and request for data and public comments on the 2006 methods document over 15 months ago, on January 18, 2005. As you know, the 303(d) list is the output of the methods and assessment phase. The list reflects data interpretation and professional judgment, and the list has significant regulatory significance. The list can reflect trends in progress or setbacks in achieving the goals and standards of the Clean Water Act. Therefore, this list is a matter of significant public concern and needs to be adopted via meaningful public participation procedures.

The NJ Register typically is received by subscribers 3-4 days after the publication date. Subscribers to the NJ Register likely will not receive the May 1 Register until May 4-5, which is AFTER the public information session.

Additionally, an "information session" is not a formal notice and public comment hearing.

While formal notice and public hearing may not be required for the 303(d) list pursuant to federal rules, I believe that it is required under NJ State rules @ NJAC 7:15-1 et seq.

I object to the lack of formal public participation procedures, especially in light of the regulatory significance of the 303(d) list, which is the driver for TMDL requirements.

I further object to the manner in which the DEP went about the notice in the NJ Register, allowing just 3 days between notice and the event. This timing totally frustrates public involvement and makes it impossible to prepare for and attend the meeting.

I request that your office exercise some oversight in this matter over DEP and request that this "information session" be re-noticed as a formal public hearing with formal public comment procedures. In the alternative, more time must be provided between notice and information session. So, at a minimum, I would urge that another public session be scheduled and the written comment period extended accordingly.

I also request that EPA ask DEP to demonstrate how this procedure complies with the State's own rules, @ NJAC 7:15-1 et seq.

Thank you for your favorable consideration of this request.

Sincerely,

Bill Wolfe  
Director  
NJ PEER